

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RICHARD A. SCHMITZ,
Plaintiff,

v.

ST. VINCENT DINING ROOM; et al.,
Defendants.

3:13-cv-00687-LRH-WGC

ORDER

Before this Court is the Report and Recommendation of U.S. Magistrate Judge William G. Cobb (#3¹) entered on February 18, 2014, recommending granting Plaintiff's application to proceed *in forma pauperis* (doc. #1) filed on December 13, 2013, and dismissing with prejudice Plaintiff's complaint (doc. #1-1). No objection to the Report and Recommendation has been filed. The action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)B and Local Rule 1B 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the Magistrate Judge's Report and Recommendation (#3) entered on February 18, 2014, should be adopted and accepted.

¹Refers to court's docket number.

1 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#3)
2 entered on February 18, 2014, is adopted and accepted, and Plaintiff's Application for Leave to
3 Proceed in Forma Pauperis (#1) is GRANTED.

4 IT IS FURTHER ORDERED that Plaintiff pay the full amount of the filing fee over time and
5 pay the initial payment of 20 percent of the greater of the average monthly deposits to his account or
6 the average monthly balance in his account for the six-month period immediately preceding the filing
7 of the complaint within thirty (30) days of the entry of this order. Thereafter, Plaintiff shall make
8 monthly payments of 20 percent of the preceding month's income credited to his prisoner account, and
9 the NDOC or other agency in custody of Plaintiff shall forward payment from Plaintiff's account to
10 the Clerk of the Court each time the amount in the account exceeds \$10 until the filing fee is paid.

11 IT IS FURTHER ORDERED that the Clerk of the Court file Plaintiff's Complaint (#1-1).

12 IT IS FURTHER ORDERED that Plaintiff's complaint is **DISMISSED with prejudice**.

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14 IT IS SO ORDERED.

15 DATED this 10th day of April, 2014.

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17 LARRY R. HICKS
18 UNITED STATES DISTRICT JUDGE
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